

HOUSE BILL REPORT

HB 1476

As Reported by House Committee On:
Criminal Justice & Corrections

Title: An act relating to altering the amount of earned release time available for certain jail inmates.

Brief Description: Altering the amount of earned release time available for certain jail inmates.

Sponsors: Representatives Kagi, O'Brien and Simpson.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/8/05, 2/15/05 [DPS].

Brief Summary of Substitute Bill

- Changes the amount of earned release time certain jail offenders may earn.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Ahern, Assistant Ranking Minority Member; Kagi, Kirby and Strow.

Minority Report: Without recommendation. Signed by 1 member: Representative Pearson, Ranking Minority Member.

Staff: Yvonne Walker (786-7841).

Background:

The Department of Corrections (DOC) and county jails may reduce an offender's term of confinement through earned release time. Earned release time may be granted for good behavior and good performance and can be taken away for disciplinary reasons.

Offenders Incarcerated in Prison. An offender convicted of a serious violent offense or a class A felony sex offense, on or after July 1, 2003, may obtain earned release time. Such an offender may not have his or her term reduced by more than 10 percent via earned release time.

Certain other offenders can have their confinement reduced by up to 50 percent. The DOC must perform a risk assessment of eligible offenders and classify them into four risk groups.

An offender may have his or her term of confinement reduced by up to 50 percent via earned early release time if he or she:

- is classified in one of the two lowest risk categories;
- is confined for an offense other than a violent offense; a sex offense; manufacture, delivery, or possession with intent to deliver methamphetamine (or an attempt, solicitation, or conspiracy to do so); delivery of a controlled substance to a minor (or an attempt, solicitation, or conspiracy to do so); a crime against persons; a felony domestic violence offense; or residential burglary; and
- has no prior conviction for any of these offenses.

The 50 percent earned release time an offender can earn expires on July 1, 2010.

An offender incarcerated for any other offense may not have his or her term of confinement reduced by more than 33 percent via earned release time.

Offenders Incarcerated in Jail. An offender incarcerated for a serious violent offense or a sex offense that is a class A felony may not have his or her term of confinement reduced by more than 15 percent via earned release time. An offender incarcerated for any other offense may not have his or her term of confinement reduced by more than 33 percent via earned release time.

Summary of Substitute Bill:

The amount of earned release time an offender may earn while incarcerated in jail is adjusted to match what an offender incarcerated in a prison would receive.

Offenders Incarcerated in Jail. The amount of earned release time an offender convicted of a serious violent offense or a class A felony sex offense (on or after July 1, 2005) can earn is reduced. Such an offender may only have his or her term of confinement reduced by up to 10 percent (instead of 15 percent) via earned release time.

The amount of earned release time certain other offenders may earn is increased. A county or municipal jail may adopt an earned release program where an offender may have his or her term of confinement reduced by up to 50 percent (instead of 33 percent) via earned early release time if he or she:

- is confined for an offense other than a violent offense; a sex offense; manufacture, delivery, or possession with intent to deliver methamphetamine (or an attempt, solicitation, or conspiracy to do so); delivery of a controlled substance to a minor (or an attempt, solicitation, or conspiracy to do so); a crime against persons; a felony domestic violence offense; or residential burglary; and
- has no prior conviction for any of these offenses.

The increase in the amount of earned release time an offender may earn expires on July 1, 2010. The increase applies both prospectively and retroactively. The correctional agency

having jurisdiction may recalculate the earned release time and reschedule the expected release date for each offender qualifying for earned release time.

The Legislature declares that the changes to the maximum percentages of earned release time do not create any expectation that the percentage of earned release time cannot be revised and offenders have no reason to conclude that the maximum percentage of earned release time is an entitlement or creates any liberty interest. The Legislature retains full control over the right to revise the percentages of earned release time available to offenders at any time.

Substitute Bill Compared to Original Bill:

The substitute bill makes the 10 percent good time (earned release) for offenders convicted of a serious violent or a class A sex offense effective for convictions on or after July 1, 2005. The bill is clarified to authorize (and not require) both city and county jails to adopt the 50 percent earned release program for qualified offenders. A provision is added to make the act expire July 1, 2010, which is the same time-period when the earned release provisions expire for prison incarcerated offenders.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect on July 1, 2005, sections 1 and 3 expire July 1, 2010.

Testimony For: When the Legislature passed Senate Bill 5990 a few years ago, which granted 50 percent good time for prison inmates, the Legislature failed to provide that same authorization for county and city jails. The unintended effect was that there is now an incentive for going to prison. Inmates in prison receive 50 percent off their sentence but inmates in jail only receive 33 percent off their sentence. This bill will fix that imbalance.

Many jails are overcrowded, however sheriffs would only like to release those prisoners that are exemplary and deserve an early release. Most of these inmates are considered trustees that participate in some type of jail related work program.

Testimony Against: The judges have some concern regarding the truth-in-sentencing and would like some consistency in sentencing offenders. If a judge sentences a person to a year in jail then there should be some expectation that the offender will spend a year in jail, and not six months. Judges realize that there is a need for managing the jail population, however instead of amending the good time language, the Legislature should consider revising the actual presumptive sentences for each of the crimes. This would more accurately reflect the sentence that an offender would receive.

Persons Testifying: (In support) Representative Kagi, prime sponsor; and Steve Whybark, Mason County Sheriff.

(Opposed) Leonard Costello, Superior Court Judges Association.

Persons Signed In To Testify But Not Testifying: None.